

BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON, DC 20268-0001

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Complaint on Sunday  
and Holiday Collections

Docket No. C2001-1

DOUGLAS F. CARLSON  
INITIAL BRIEF

July 9, 2002

I hereby submit my initial brief for Docket No. C2001-1.

Respectfully submitted,

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DOUGLAS F. CARLSON

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon the required participants of record in accordance with section 12 of the *Rules of Practice*.

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DOUGLAS F. CARLSON

July 9, 2002  
Santa Cruz, California

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## **I. INTRODUCTION**

On October 27, 2000, I filed a complaint concerning Postal Service collection services on holidays and eves of holidays. My amended complaint contained the following allegations:

[¶ 20] On a nationwide or substantially nationwide basis, the Postal Service has eliminated processing of outgoing First-Class Mail on several holidays without first requesting an advisory opinion from the Commission on whether customers would receive adequate postal services, within the meaning of 39 U.S.C. § 3661(a), if they did not have access to outgoing First-Class Mail service on holidays or for two consecutive days. Current holiday service levels may not be adequate within the meaning of 39 U.S.C. § 3661(a).

[¶ 34] The Postal Service has eliminated normal mail collections on Christmas Eve and, possibly, New Year's Eve without first requesting an advisory opinion from the Commission on whether customers would receive adequate postal services, within the meaning of 39 U.S.C. § 3661(a), if collections were curtailed on Christmas Eve or New Year's Eve and if collections were performed earlier than the time posted on collection boxes. Current service levels on Christmas Eve and, possibly, New Year's Eve may not be adequate within the meaning of 39 U.S.C. § 3661(a).

Douglas F. Carlson Notice of Filing of Amended Pages of Complaint, filed March 29, 2001.

The evidence presented in this case establishes that the Postal Service has eliminated processing of outgoing First-Class Mail on several holidays without first requesting an advisory opinion from the Commission on whether customers would receive adequate postal services, within the meaning of 39 U.S.C. § 3661(a), if they did not have access to outgoing First-Class Mail service on holidays or for two consecutive days. This elimination of holiday mail service constitutes a change in the nature of postal services that has affected service on a nationwide or substantially nationwide basis. The Postal Service was required to obtain an advisory opinion from the Commission before implementing this change.

The evidence in this case also demonstrates that the Postal Service is failing to provide adequate and efficient postal services on holidays, as 39 U.S.C. § 3661(a) requires.

I also have presented evidence establishing that the Postal Service has eliminated mail collections at the normal times on the eves of some holidays in various cities from coast to coast without first requesting an advisory opinion from the Commission on whether customers would receive adequate postal services, within the meaning of 39 U.S.C. § 3661(a), if they did not have access to normal outgoing First-Class Mail service on eves of holidays and did not receive sufficient advance notice of the curtailments.

Finally, I have presented evidence conclusively demonstrating that collection services on some eves of holidays are neither adequate nor efficient.

## **II. CONTENTS OF A PUBLIC REPORT ISSUED UNDER SECTION 3662**

Most Commission proceedings result in an opinion and recommended decision. An opinion and recommended decision has a fairly specific, limited purpose. Under section 3624(c), the recommended decision transmits the Commission's recommendations on rates, fees, or classifications to the Board of Governors for action under section 3625. The recommended decision activates certain legal options for the Board of Governors. The recommended decision is intended primarily for a limited audience consisting of the Board of Governors, the Postal Service, and rate-case participants.

A public report under section 3662 serves a different purpose and a different audience. Congress intended the Commission's public report to inform both the public and the Postal Service of service problems whose existence the Commission confirms in a section 3662 proceeding. In providing for a hearing on a service complaint and a public report at the conclusion of the hearing, Congress enlisted the Commission's expertise on postal matters to investigate service problems and inform the public and the Postal Service of these problems. Congress chose to preserve the Postal Service's authority to implement changes in response to the Commission's public report. Nonetheless, if section 3662 is to have any practical and productive purpose, the twin goals of section 3662 must be to identify service problems and facilitate correction of

service problems. Therefore, in issuing its public report the Commission will be acting fully within its authority and discretion not only by discussing service problems related to collections on holidays and eves of holidays but also by recommending actions that the Postal Service should take to rectify these problems.

### **III. NOTEWORTHY PROCEDURAL EVENTS: POSTAL SERVICE DEFIANCE OF A COMMISSION DISCOVERY ORDER**

The discovery period in this case was delayed and marred by the Postal Service's defiance of a Commission discovery order. In Order No. 1331,<sup>1</sup> the Commission directed the Postal Service to produce a set of Collection Box Management System (CBMS) data under protective conditions and a smaller set of the same data without protective conditions. The Postal Service defied the Commission's order, in the process denying participants and the Commission access to data necessary to resolve issues in this case.

For example, an advertisement placed in Connecticut newspapers in December 2001 stated that "mail deposited in postal collection boxes will be picked up for the last time at noon on December 24th." DFC-T-1 at 43 and DFC-T-1 Part 2, Appendix 5. If some collection boxes in Connecticut have a normal final weekday collection time before noon, and if the Postal Service collected mail from these boxes at the normal time, this advertisement incorrectly suggested that these collection boxes might be collected at noon on Christmas Eve. If the Postal Service is promising one level of service and providing another, it is not providing adequate service. *See discussion in section V.B, infra.* A similar problem occurred with the Southeast New England District's notice. DFC-T-1 at 44. Whether some collection boxes in Connecticut and the Southeast New England District have a final weekday collection time before noon is unknown because the Postal Service refused to provide CBMS data.

The Postal Service's defiance of Order No. 1331 also hindered development of my survey, which I discussed in DFC-T-1 at 55–57. Before

sending survey questions to customers, I wanted to ensure that collection boxes existed in their city with normal collection times later than the early collection times announced for Christmas Eve and New Year's Eve in 2001. It is possible that normal weekday collection times in some areas are so early in the day that the early collections on eves of holidays in particular districts would not have affected customers in some areas. Alternatively, the Saturday schedules may be identical to the weekday schedules. Without access to the CBMS database, I was unable to verify this information. Therefore, I generally tried to exclude non-city-delivery offices and smaller city-delivery offices whose level of normal collection services was unknown to me. I usually assumed that a city with more than one ZIP Code for street addresses was large enough to have normal weekday collection times later than the time announced for the eves of the holidays. *Id.* at 57. Absence of CBMS data hindered my development of my survey sample.

The Postal Service's defiance of the Commission's discovery order also inhibited my ability to analyze the extent to which collections were performed at earlier hours than normal on eves of holidays. See *Id.* at 61–62. The Postal Service's failure to provide the data also prevented me from identifying the number of collection boxes in certain districts that had no Saturday collection at all. When districts perform early collections on weekday eves of holidays according to a Saturday schedule, customers are completely denied outgoing mail service when they use collection boxes that are scheduled for weekday collections but not Saturday collections.

Finally, as discussed in DFC-T-1 at 67–68, absence of CBMS data denied me the ability to analyze the effect on customers of the existence of holiday collection times on collection boxes that are located in service areas of plants that do not, in fact, process outgoing mail on holidays.

The Postal Service's refusal to cooperate in a section 3662 proceeding is shameful. The Commission should highlight in its public report the

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<sup>1</sup> Order No. 1331, filed November 27, 2001.

consequences to the public interest when neither the Commission nor the complainant has a specific legal remedy to address the Postal Service's strategic decision to defy a lawful Commission discovery order in a proceeding under section 3662.

The dispute also prompted me to request a modest delay in this proceeding in the hope that my Freedom of Information Act lawsuit against the Postal Service would be resolved in time to use the court's judgment to overcome the Postal Service's intransigence in this proceeding. See Presiding Officer's Ruling No. C2001-1/17.<sup>2</sup> In that lawsuit, I sought a declaratory judgment establishing that CBMS data were not subject to any statutory exemptions from mandatory disclosure under FOIA. The Postal Service already had provided the CBMS data for Salem, Oregon, the FOIA request that originally prompted the lawsuit.

On April 29, 2002, the federal court ruled that the lawsuit was moot because the Postal Service had turned over the records for Salem, Oregon. The court disagreed with my claim that a substantial danger existed of future Postal Service noncompliance with FOIA requests for CBMS data. Existence of a substantial danger of future noncompliance would have justified declaratory relief. Unfortunately, my contention is turning out to be correct, as the Postal Service has completely ignored my May 6, 2002, FOIA request for CBMS data for two cities in Southern California. Another lawsuit is likely.

#### **IV. CHANGE IN THE NATURE OF POSTAL SERVICES**

Over the past several years, the nature of postal services on holidays has changed. My testimony analyzes the dramatic drop in the percentage of plants that process outgoing mail on holidays. DFC-T-1 at 1-9 and Part 1, Appendix 1. The drop is particularly dramatic on widely observed holidays. In the 1970's and 1980's, customers typically could send outgoing First-Class Mail on Sundays and on all holidays except, perhaps, Christmas Day and New Year's Day. Indeed,

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<sup>2</sup> POR C2001-1/17, filed January 8, 2002.



the default policy was to process outgoing mail on holidays. POM Exhibit 125.22 and DMM section G011.1.5. Now, customers typically cannot send outgoing mail on Sundays or widely observed holidays, even on Monday holidays. DFC-T-1 at 6. Thus, two days often pass without outgoing mail service. In addition, now at least one fourth of plants do not process outgoing mail on non-widely observed holidays, either. Customers must plan their mailing in advance — if they know about the holiday service levels at all — particularly when two days will pass without outgoing mail service. Customers never faced these problems in the past.

The trend is not surprising because, at least in 1999, the typical default policy from Postal Service headquarters for holidays was not to process outgoing mail. USPS-LR-C2001-1/1. In 2000, the decision was left to local officials based on mail volume in the previous year — when the national policy was not to process outgoing mail on most holidays. *Id.* In 1995, the policy was to process outgoing mail on widely observed holidays that fall on Saturday or Monday to avoid two consecutive days without outgoing mail processing. *Id.* Indeed, the headquarters memo for 1995 explicitly stated that “it is our policy to avoid two consecutive days without collections and outgoing processing” on widely observed holidays. *Id.* Postal Service policy now is to allow two consecutive days to pass without processing outgoing mail.

This policy change represents a change in the nature of postal services that has affected service on a nationwide or substantially nationwide basis. Moreover, the actual reduction and, in many instances, virtual elimination of holiday mail service constitutes a change in the nature of postal services that has affected service on a nationwide or substantially nationwide basis. Section 3661(b) required the Postal Service to obtain an advisory opinion from the Commission before implementing these changes. The hearing on the advisory opinion would have allowed customers and the Commission to provide input to the Postal Service on the adequacy of its plan to eliminate collection and processing of outgoing mail on holidays, particularly when the plan will cause two days to pass without outgoing mail service.

Similarly, deviations in recent years from normal collection schedules on eves of holidays represent a change in the nature of postal services. First, customers no longer can rely on posted collection times on collection boxes. Second, customers may not even know that they cannot or should not rely on posted collection times on collection boxes. Third, customers in many cities across the country no longer have access to normal collection services on eves of holidays. Abnormal service levels on eves of holidays represent a change in the nature of postal services that has affected service on a nationwide or substantially nationwide basis. Section 3661(b) required the Postal Service to obtain an advisory opinion from the Commission before implementing these service changes.

**V. POSTAL SERVICES ON HOLIDAYS AND EVES OF HOLIDAYS ARE NEITHER ADEQUATE NOR EFFICIENT**

The Postal Service is failing to provide adequate and efficient outgoing First-Class Mail service on holidays and some eves of holidays.

**A. THE STATUTE REQUIRES THE POSTAL SERVICE TO PROVIDE POSTAL SERVICES THAT ARE BOTH ADEQUATE AND EFFICIENT.**

**1. Adequate postal services are postal services that satisfy the needs of customers.**

The statute imposes a reasonable, if not humble, requirement on the Postal Service. The Postal Service must provide services that meet the needs of customers. The Postal Service is not required to provide spectacular or extravagant services that exceed the needs of customers. However, the services must, at a minimum, meet the needs of customers.

I structured my testimony to describe the needs of customers for mail service on holidays and eves of holidays. In my testimony, I sought to describe customers' needs and to present an opportunity to the Postal Service to cross-examine my analysis of customer needs. I excluded legal argument from my testimony because legal argument is not a necessary component of an

evidentiary presentation. By arguing in this brief that adequate postal services are postal services that meet the needs of customers, I intend to transform my testimony into an account of the various ways in which the Postal Service is not providing adequate postal services on holidays and eves of holidays. Rather than repeating a substantial portion of my testimony in my brief, I will, instead, summarize the service shortcomings and provide page references to my testimony.

**2. Efficient postal services are postal services that meet certain standards with a minimum of expense or waste.**

Efficiency is measured by evaluating the expense or waste involved in producing postal services that meet certain standards. For example, if postal customers need collections and processing of outgoing First-Class Mail on Martin Luther King, Jr.'s Birthday, the statutory requirement to provide adequate postal services compels the Postal Service to provide this service. If the minimum expense to provide this service is \$X million, postal services will be efficient if the cost of collecting and processing outgoing mail on this holiday does not exceed \$X million. If the cost exceeds \$X million, postal services will not be efficient.

**3. “Adequate” and “inefficient” are separate, independent requirements.**

Congress' decision to use a conjunction in section 3661(a) indicates that the Postal Service is required by law to provide services that are both adequate and efficient. These requirements are separate and independent. That is, if the Postal Service provides postal services that are efficient but not adequate, the Postal Service is not complying with 39 U.S.C. § 3661(a).

Moreover, considerations of cost, performance, or efficiency do not temper adequacy. Returning to the example of customers' need for collection and processing of outgoing First-Class Mail on MLK's Birthday, the Postal Service cannot cite (hypothetically) relatively high costs in providing this service

as an excuse for not providing the service if customers need the service. If customers need collections on MLK's Birthday, postal services will not be adequate without collections on MLK's Birthday. To meet the efficiency criterion, the Postal Service must perform the collections on MLK's Birthday at a minimum of cost or waste. Postal Services will be adequate *and* efficient only if the Postal Service performs collections on MLK's Birthday and does so at a minimum of cost or waste.

## **B. INADEQUATE NOTICE TO THE PUBLIC LEADS TO INADEQUATE SERVICE**

Informing the public of the level of service available is a fundamental component of providing adequate service. Postal customers need to know when their mail will be collected, postmarked, sorted, and dispatched, and they need to know how many days to expect for delivery of their mail. Unfortunately, the Postal Service does not provide adequate notice to customers of collection services on holidays and eves of holidays.

### **1. When notice is inadequate, postal services are inadequate as well.**

My testimony at 35–37 explains postal customers' need for accurate information about collection services. Postal customers need to be aware, before they deposit their mail, whether mail will be collected according to the schedule posted on the collection box. DFC-T-1 at 35. If New Year's Eve is on a Monday and the normal weekday collection time posted on a collection box is 5:00 PM, and if customers deposit mail in this box on New Year's Eve at 4:30 PM, these customers have a right to expect that the mail will be collected, postmarked, sorted, and dispatched on New Year's Eve. Otherwise, the customers may suffer financial, legal, or other harm, such as a college application being rejected as late, or customers may suffer adverse tax consequences because December 31 is a date with many tax consequences. My testimony at 29–35 describes the reasons why customers need normal

collections on eves of holidays and the types of harm that customers may suffer if the Postal Service does not honor posted service schedules.

Not only must the notice of changes in collection services be provided to customers before they deposit their mail, but the notice also must be provided far enough in advance to allow customers to make alternate arrangements. My testimony at 36 explains reasons why even a notice concerning early collections that is posted on a collection box may not allow a customer arriving at that box at 4:30 PM on Christmas Eve to make alternate arrangements to obtain outgoing mail service on Christmas Eve. The Postal Service's response to DFC/USPS-36(a) seems to acknowledge as much.

Little doubt exists that speed and timeliness of delivery are important to customers. The explosive growth of companies such as FedEx that offer guaranteed expedited delivery services is proof that customers care about fast, reliable service. Moreover, data provided in Docket No. R2000-1 revealed that fully 29 percent of Priority Mail flat-rate envelopes weighed three ounces or less. Docket No. R2000-1, Tr. 7/2754. The only rational reason why customers would spend three dollars or more to send a letter via Priority Mail instead of First-Class Mail would be to try to speed the delivery by one day. No reasonable person can deny that customers care about speed of mail delivery. If customers care about the speed of delivery, certainly they must care whether mail that they deposit on a holiday or an eve of a holiday will begin its journey on the day of deposit.

A failure to provide accurate information about collection services is a failure to provide adequate postal services within the meaning of section 3661(a). If customers do not have enough information available to determine the level of service that they will receive, they may effectively be denied the service because they will choose another, probably more-expensive option for which they can obtain accurate information. Moreover, if the information provided to customers leads customers to believe that they will receive a service that they will not, in fact, receive, customers will be denied First-Class Mail service as well as the opportunity to seek an alternate service that will meet their needs.

Section 316 of the POM requires collection-times labels to reflect the “correct” collection times. This section in the Postal Service’s own operations manual admits the importance of notifying customers of the level of collection service being provided. The importance of notifying customers of the level of collection service being provided does not somehow evaporate on eves of holidays just because a district manager wants to send his employees home early or reduce payroll expenditures. Moreover, customers’ need for accurate information on collection times is not suspended on holidays. Indeed, on holidays, when fewer communications options may exist — alternative delivery companies may not operate, and businesses that offer fax services may be closed — the need for accurate collection information arguably is greater than normal. Also, on holidays postal representatives themselves generally are unavailable to answer customers’ questions, leaving customers at post offices bewildered about the level of holiday mail service that is available.

A press release from the Central New Jersey District dated December 7, 2001, also acknowledged that changes in collection schedules are important information. The press release included the following sentence: “Please make note of these important changes and plan your mailing activities accordingly.” DFC-T-1 Part 2, Appendix 4.

**2. Notice to the public of early collections on eves of holidays is not adequate.**

My testimony at 37–58 provides extensive evidence detailing the inadequacy of the Postal Service’s notice to the public of early collections on eves of holidays.

In 2001, of the 15 districts that performed early collections on Christmas Eve or New Year’s Eve, nine used press releases as the *sole* method of communicating this information to the public. *Id.* at 38. The value of press releases in communicating this information to the public is modest at best. However, press releases are wholly ineffective when used as the exclusive means of communicating this information to the public. My testimony at 39–41

explains why press releases are not effective for communicating changes in collection schedules to the public. The shortcomings of press releases are particularly acute in large metropolitan areas. The nine districts that used press releases as the sole method of communicating with the public typically were the largest, most-urban of the districts that performed early collections in December 2001.

Press releases, no matter how well they might, in an ideal world, saturate print and electronic media, still will not reach customers who enter an affected service area by land, sea, or air and will not have seen or heard the announcements in the media. Yet these mobile customers have as much of a right to receive accurate information about postal services as the residents of the affected service area.

Newspaper advertisements and lobby displays are other Postal Service methods of communicating information to the public. However, newspaper advertisements reach only some of the customers who read the newspapers in the affected service area, and lobby displays reach only customers who visit post-office lobbies.

Even if existing Postal Service communications strategies were successfully communicating the message to customers, the notices would be insufficient to inform the public of the changes in collection services. The Postal Service's notices often are confusing or misleading, using sloppy language that effectively undermines the attempt to communicate operational information. See *Id.* at 43–47. The press release in December 2001 for the Westchester District failed even to identify the cities or geographic area affected and instead put the burden on media outlets and customers to research the changes in the level of service posted on collection boxes. *Id.* at 45–46. The New York District's press release announcing early collections on Monday, July 3, 2000, managed to omit the locations of the early collections (Manhattan and Bronx). *Id.* at 46–47. The New York District's other feeble attempt at notifying the public would almost be laughable, if the consequences were not so grave. The New York District buried a tiny advertisement in the classified advertisement section of the *Daily News* on

Saturday, July 1, 2000, thus ensuring that virtually no one would see the notice. The advertisement appears in DFC-T-1 Part 2, Appendix 6.

Collection boxes located in front of stations in large cities often are treated as regular street collection boxes and collected on motorized collection routes. *Id.* at 48. When the Postal Service performs early collections in a city, these collection boxes probably are collected at the early hour as well. But the station may, in fact, be open for normal retail window hours. Customers may deposit mail in these collection boxes, entirely unaware that their mail will not be collected until after the holiday.

My personal experiences confirm the inadequacy of the notice to the public. See *Id.* at 49–55. I was in Manhattan on Friday, June 30, 2000, and Saturday, July 1, 2000, and even though I spent time in the General Post Office walking around the lobby and reading signs, I did not encounter any notices concerning the early collections planned for Monday, July 3, 2000, until the discovery phase of this case, nearly a year later. In December 2001, I was in New York less than a week before Christmas, and I made four attempts to learn whether early collections would be conducted on Christmas Eve. I read signs and notices, asked a window clerk, called customer service, and even spoke with the public-affairs office. None of these inquiries produced any information indicating that the New York District would be performing early collections on Christmas Eve. Yet in January 2002, using the Freedom of Information Act, I obtained press releases revealing that the New York District did, indeed, perform collections according to the Saturday schedule, rather than the Monday schedule, on Christmas Eve and New Year's Eve in 2001. I never found any indication that newspapers actually published this information, and certainly postal employees who interact with the public were not informed. As far as I can tell, the Postal Service may have provided no notice to the public of the early collections on Christmas Eve and New Year's Eve in New York City in 2001. If notice was provided, it was, at best, grossly inadequate.

On December 24, 2001, I telephoned 1-800-ASK-USPS to inquire about early collections on Christmas Eve. *Id.* at 54. The representative informed me



that collections were being performed at the normal weekday time. In reality, 14 districts were performing early collections.

Finally, on the Friday after Thanksgiving in 2001, I fell victim to a post-holiday service curtailment at the Plaza Station in Pasadena, California. *Id.* at 54–55. I deposited my mail in the lobby drop prior to the posted weekday collection time, but my mail was not processed until Saturday. On the way out of the building, I discovered a small sign indicating that the station was closed for the Friday after Thanksgiving (presumably to save money). The sign did not indicate that mail would not be collected from the lobby drop, and no sign was posted over the lobby drop. Yet the Postal Service apparently decided not to provide service on this non-holiday.

**3. My survey results confirm that the Postal Service's methods of notifying the public are failing to reach all customers.**

My testimony includes the results of a survey that I conducted of customers living in service areas where the Postal Service performed early collections on Christmas Eve or New Year's Eve in 2001. *Id.* at 55–57; *see also* Response to DBP/DFC-1. Despite sending approximately 220 survey cards, I was able to identify only three customers who were aware of the early collections on eves of holidays in December 2001. Response to DBP/DFC-1. In contrast, I easily located 31 customers who were unaware of the early collections. *Id.* Any postal customer may, on any day, need outgoing mail service. Therefore, the Postal Service's failure to notify all customers of early collections on eves of holidays proves that the notice to the public of early collections on eves of holidays was inadequate.

**4. Notice to the public of collection services on holidays is not adequate.**

Approximately 4,016 collection boxes nationwide show holiday collection times. Response to DFC/USPS-19. The remainder of the collection boxes do not.

Except possibly for the 11 collection boxes located in Milwaukee that show holiday collection times, most of the collection boxes nationwide that show holiday collections mislead customers because mail deposited in those collection boxes will not, in fact, receive outgoing service on all holidays.

Most collection boxes do not show holiday collection times. However, these boxes are problematic because a significant percentage of collection boxes do, in fact, receive collection service on some holidays. See DFC-T-1 Part 1, Appendix 2. No other information on holiday collection services typically is available. Thus, even when the Postal Service offers holiday collection service, the Postal Service denies customers holiday collection service by not telling customers that they will receive the service.

My testimony at 22–25 and Part 1, Appendix 3 describes a solution to the problem of inadequate notice. Collection-times labels should show a holiday collection time *and indicate the holidays on which the collection time will apply*. No reason exists why local postal officials cannot commit to a certain level of holiday service, provide the information to the public, and then provide the service. No excuse exists for the present wide variation in holiday services from city to city, holiday to holiday, and year to year in each city on the same holiday.

### **C. HOLIDAY COLLECTION SERVICES ARE NOT ADEQUATE.**

The Postal Service recognizes two categories of holidays: widely observed holidays and non-widely observed holidays. The non-widely observed holidays are MLK's Birthday, Presidents Day, Columbus Day, and Veterans Day. Some holidays in both categories are always Monday holidays. Monday holidays raise a special issue of two days passing without outgoing mail service if the Postal Service does not provide holiday collections on Monday holidays. As I explained in my testimony, on most holidays, collection services are inadequate.

#### **1. Adequate service requires collection and processing of outgoing mail on non-widely observed holidays.**

By definition, most businesses are open on non-widely observed holidays. A recent study reported that only 10 percent of manufacturers, stores, hospitals, and communications companies schedule paid holidays on MLK's Birthday. DFC-T-1 Part 2, Appendix 8. When businesses are open, they need outgoing mail service.

Post offices in service areas of plants that do process outgoing mail on non-widely observed holidays typically perform collections according to a normal weekday collection schedule (or Saturday collection schedule for Veterans Day when this holiday falls on a Saturday). *Id.* at 13. This practice indicates that mail volumes and customers' time of deposit — that is, customers' *needs* — on non-widely observed holidays resemble those on normal weekdays.

Unfortunately, customers in the service areas of approximately 25 percent of processing plants do not receive outgoing mail service on non-widely observed holidays. *Id.* at 6. As I explained in my testimony, plants that are not processing outgoing mail on MLK's Birthday, Presidents Day, and Columbus Day are stranding at least 40 percent of their normal weekday volume. *Id.* at 17. Plants that are not processing outgoing mail on Veterans Day are stranding at least 32 percent of their normal volume. *Id.* On Veterans Day in 2000, Saturday, November 11, 2000, it is noteworthy that the Pacific Area decided not to process outgoing mail, even though the Pacific Area expected "typical Saturday mail volumes." USPS-LR-C2001-1/3; *see also* DFC-T-1 at 10. Saturday volume typically is 65 percent of normal weekday volume. Response to DFC/USPS-25(d).

Most likely, plants are stranding a greater percentage of normal volume than available data reflect because the absence of a holiday collection time on nearly every collection box discourages customers from depositing mail on holidays. *Id.* at 18. If collection boxes indicated holiday collection times, surely more customers who need holiday mail service would use collection boxes. In addition, customers who are concerned about possible theft of mail from collection boxes may not deposit mail on holidays even though they need

outgoing mail service because the boxes do not show a holiday collection time. *Id.* at 19. In fact, the Postal Inspection Service has responded to outbreaks of thefts of mail from collection boxes by advising customers in many cities not to deposit mail in collection boxes after the final collection time posted on the boxes to prevent the mail from sitting in the boxes overnight. *Id.* Volume data from plants that process mail on holidays surely underestimate customers' true need for holiday mail service.

Another reason exists why volume data underestimate customers' need for holiday mail service. On widely observed holidays, and perhaps on non-widely observed holidays as well, collection activities bring less mail to the processing plant because some boxes are not collected at all, and those boxes that are collected usually are collected at earlier hours than normal. *Id.* On holidays, some percentage of mail that is available for collection is, nonetheless, still sitting in street collection boxes when the final cancellation volumes are tallied.

- 2. Except, possibly, at Christmas and New Year's, adequate service requires collection and processing of outgoing mail with a sufficient frequency to prevent two days from passing without outgoing mail service.**

Customers need collection and processing of outgoing mail with a sufficient frequency to prevent two consecutive days from passing without outgoing mail service, except, possibly, at Christmas and New Year's. DFC-T-1 at 13–15. POM Exhibit 125.22, footnote 1, states that "Consecutive days without collections should be avoided." Postal Service policy in 1995 explicitly stated that "it is our policy to avoid two consecutive days without collections and outgoing processing" on widely observed holidays. USPS-LR-C2001-1/1. Therefore, "some level of collections and outgoing processing will occur on those widely observed holidays that fall on Saturday or Monday." *Id.* The Postal Service needs to provide outgoing mail service on non-widely observed holidays and on Memorial Day and Labor Day. For Memorial Day and Labor Day, the Postal Service should consider the model previously used in the Pacific Area of

consolidating mail from many plants into a single plant for processing on widely observed holidays. DFC-T-1 at 5.

In reality, over 80 percent of processing plants sit idle on widely observed holidays. *Id.* at 16. Idle processing plants strand a significant volume of mail on widely observed holidays — 250,000 pieces or more. *Id.* at 16–17. The stranded volume is sufficiently large to prompt post offices to perform additional collections in the morning on the day after a holiday to bring the accumulated volume to the processing plant early enough in the day to avert “plan failures” later in the evening. *Id.* at 18.

**3. The needs of customers are not the primary factor in Postal Service decision-making on whether a particular plant will process outgoing First-Class Mail on a particular holiday in a particular year.**

My testimony describes in detail the wild variations and general unpredictability of outgoing First-Class Mail service. DFC-T-1 at 7–9, 20–21, and Appendix 2. Holiday processing activities vary from plant to plant, holiday to holiday, and year to year, and past experience is not necessarily an accurate predictor of the future. Services even vary within New York City. The Queens P&DC generally processes outgoing mail on non-widely observed holidays, while the plants in Brooklyn and Staten Island do not. No consolidation plans are in effect to direct Brooklyn and Staten Island mail to Queens for processing. Service levels for customers in Manhattan and Bronx fall somewhere in between, and the pattern is sufficiently random that I cannot summarize or predict when customers in Manhattan and Bronx will receive outgoing mail service. Customers in these boroughs surely have little more insight than I do. Customer needs do not vary in a manner consistent with these swings in service levels. The wide variation in holiday processing activities establishes beyond question that the Postal Service is not making decisions on providing holiday mail processing with the needs of customers in mind.

Nowhere is the ignorance of customer needs more evident than in the Pacific Area on Veterans Day in 2000, Saturday, November 11, 2000. In a

memo dated October 24, 2000, the Pacific Area advised field managers that the Saturday occurrence of Veterans Day "should result in typical Saturday mail volumes." USPS-LR-C2001-1/3. Saturday mail volume typically runs about 65 percent of normal weekday volume. Response to DFC/USPS-25(d). The Pacific Area ordered adherence to normal Saturday collection schedules on Saturday, November 11, 2000. This directive seemed reasonable: provide Saturday collection service for normal Saturday volumes. However, three days later, apparently based on a teleconference, the Pacific Area reversed course. On October 27, 2000, the Pacific Area decided that plants would not process outgoing mail. USPS-LR-C2001-1/3. Assuming Saturday mail volumes are large enough to signal a need for outgoing mail processing on Saturdays, it is hard to imagine how the Pacific Area's decision not to process mail on Veterans Day, and to leave all this mail sitting in collection boxes until Monday, was in any way related to the needs of customers.

The fact that the Postal Service processes mail at all on holidays suggests that customer need for the service exists. The Postal Service needs to settle on the level of holiday services that it will provide, announce these services to the public on collection boxes, and then provide the promised level of service. Unfortunately, at present, the service levels are not adequate, and the notice to the public is virtually nonexistent.

#### **D. HOLIDAY COLLECTION SERVICES ARE NOT EFFICIENT.**

Efficiency is measured by evaluating the expense or waste involved in producing postal services that meet certain standards. Collection services on holidays are not efficient because the Postal Service is not directing resources toward informing the public of the level of collection service that will be provided. Informing the public of the services that will be provided is a minimum requirement for providing adequate service. The collection-times label from Mobile, Alabama, presented in DFC-T-1 Part 1, Appendix 3, is a model that should be considered for nationwide deployment. This model adapts to the limitations of the current label design. A variation of this model would be a

redesigned collection-times label that would have a preprinted box for every holiday, and the CBMS database would check the boxes beside the holidays to which the printed holiday collection time applied.

Current holiday collection services also are inefficient because they waste customers' time and money. Some customers likely spend extra money to transport or transmit correspondence on holidays because they are not aware that regular First-Class Mail service is available. Other customers, including I, waste time preparing outgoing mail on holidays or driving it to the post office, only to discover later that no outgoing mail service was provided on that holiday. The absence of accurate information about holiday collection services leads to inefficiencies for customers.

#### **E. COLLECTION SERVICES ON EVES OF HOLIDAYS ARE NOT ADEQUATE.**

My testimony explains in detail the reasons why early collections on eves of holidays fail to provide postal customers with the services that they need. Therefore, the Postal Service is failing in its statutory duty to provide adequate postal services.

##### **1. Customers need normal collection service on eves of holidays.**

*Customers need normal outgoing mail service on eves of holidays* because the impending holiday usually signals that one or two consecutive days without outgoing mail service are imminent. DFC-T-1 at 30. Also, businesses are open on eves of holidays. *Id.* at 33–35. When businesses are open, their employees generate business and personal mail. *Id.* The New York Stock Exchange often is open for all or part of eves of holidays, and the stock exchange alone generates business activity around the country. *Id.* at 34–35.

On Christmas Eve, customers send mail related to Christmas, a season known for mail volumes that are heavier than normal. *Id.* at 30. On New Year's Eve, December 31 postmarks have tax consequences. Some college applications must be postmarked by January 1; since January 1 postmarks are

available in few cities, December 31 effectively becomes the postmark deadline. *Id.* at 31–33. A Postal Service press release from Madison, Wisconsin, advises customers who need December 31 postmarks to “mail early or observe early closing hours” of retail facilities. *Id.* at Appendix 3. This press release is an admission that the Postal Service, by closing retail services early, is not providing the services that customers need.

Early collections and early retail closing hours on eves of holidays deny customers adequate postal services.

**2. Use of Saturday collection schedules on weekday eves of holidays exacerbates existing deficiencies in Postal Service collection schedules.**

Some collection boxes are not scheduled for a Saturday collection even though Postal Service policy requires a Saturday collection for every collection box that is accessible to the public on Saturdays. DFC-T-1 at 62. When the Postal Service conducts collections on a weekday eve of a holiday according to the Saturday schedule, customers are completely denied collection services. If the eve of a holiday is on a Monday, mail deposited after the final collection time on Friday will not be collected until the following Wednesday — *five* days later.

Use of Saturday schedules leads to inadequate service in some cities because Saturday collection schedules do not, themselves, comply with Postal Service policy. The Postal Service admits that some collection boxes in Manhattan have Saturday collection times earlier than the time that the POM requires (typically 1:00 PM). *See Response to DFC/USPS-71.* The POM sets the minimum national service standards for adequate collection services within the meaning of section 3661(a). One collection box in midtown Manhattan has a final collection on Saturdays at 7:00 AM, a time that does not provide adequate service on a Saturday let alone any weekday. *See DFC-T-1 at 34.* The collection boxes in the Wall Street area have a final collection on Saturdays at 8:30 AM. Yet on eves of holidays, the New York Stock Exchange does not close before 1:00 PM. *Id.* The collection boxes at the bottom of many mail chutes in



Manhattan office buildings have no Saturday collection at all, a violation of Postal Service policy if the boxes are accessible on Saturdays. DFC-T-1 at 62. When the Postal Service uses a Saturday collection schedule on a weekday eve of a holiday, these collection boxes are not collected.

### **3. Early collections on eves of holidays harm customers.**

Early collections on eves of holidays harm customers in several ways. See DFC-T-1 at 58–63. First, customers generally are harmed when the Postal Service does not provide a service that they need, particularly when customers are relying on the Postal Service for one of its monopoly services. Second, customers are harmed when mail that they deposit for collection is not collected until several days later, as they may suffer financial, legal, or other penalties. This mail also may be at risk for theft. Third, customers may need to travel several miles in the afternoon or evening to find a post office where they can deposit their mail for collection on the eve of the holiday.

The Postal Service seems to acknowledge the harm to customers when mail is not collected according to the schedule posted on collection boxes. A so-called “zero bundle” may occur when a bundle of test mail deposited in routine External First-Class Measurement System (EXFC) testing is not collected and postmarked on the day of deposit. Response to DFC/USPS-42(d). Zero bundles harm customers because most or all the mail fails to be delivered according to the one-day, two-day, and three-day service standards applicable to that mail. See Response to DFC/USPS-42(b) and (c). Compared to a zero bundle in EXFC testing, if customers deposit their mail prior to the collection time posted on a collection box, and if they are harmed when their mail is not collected and processed on the day of deposit, their harm is no less severe or significant if it occurs on the eve of a holiday as a result of a deliberate Postal Service decision to perform early collections and a failure of the Postal Service to provide sufficient notice to customers. In fact, the harm from early collections on eves of holidays is likely to be greater than the harm caused by a typical missed collection detected by EXFC because the early collection on the eve of a holiday precedes a holiday on which no outgoing mail service is provided. Thus, the *typical weekday EXFC “zero bundle” results in a one-day delivery delay, while the typical early collection on the eve of a holiday causes a two-day or even a three-day delay because of the absence of collections and mail processing on holidays. Additional delays due to holiday mail volume are possible.*

The sufficiency of the notice to the public about early collections affects the extent of the harm. If most customers are not aware of the early collections, they are more likely to deposit mail after the early collection time but before the time posted on the collection box in the full expectation that the mail will be collected and processed on the day of deposit. For example, postal customers in Manhattan would be far more likely to deposit mail at 2:00 PM on Christmas Eve with the expectation that the mail would be collected and processed on Christmas Eve if they believed that the 5:00 PM collection time posted on the *collection box applied, rather than the earlier 8:30 AM or 1:00 PM collection time* (or, in the case of mail chutes, no collection time at all).

As I explained in section V.B.2, *supra*, the notice to the public of early collections on eves of holidays is grossly deficient. The inadequate notice increases the likelihood and extent of harm to customers.

#### **4. Elimination of collections on eves of holidays harms customers and denies them adequate postal services.**

The Postal Service provided evidence in USPS-LR-C2001-1/4 revealing that the Postal Service, on Christmas Eve in 1996, did not collect or process *any* outgoing mail for customers in Utah or for customers in Arizona served by the Phoenix and Tucson processing and distribution centers (most of the population of Arizona). On Christmas Eve in 1998, the Postal Service in the Tucson area declined to provide customers with any outgoing First-Class Mail service, a monopoly postal service for which no replacement exists. On Christmas Eve in 1999, the Postal Service provided no outgoing First-Class Mail service in Utah, even though no outgoing mail service was available on the following two days, either.

The elimination of collection and processing of outgoing First-Class Mail on eves of holidays denies customers a service that they need and to which they are entitled under Postal Service policy specified in POM Exhibit 125.22, DMM section G011.1.5, and headquarters directives. The Postal Service has a

monopoly on First-Class Mail, and field offices must provide customers with at least the required minimum level of service.

**5. In deciding whether to perform early collections on eves of holidays, the Postal Service bases decisions on convenience to the Postal Service, not needs of customers.**

The variation among postal districts and areas in collection practices on eves of holidays suggests that decisions to perform early collections on eves of holidays are made based on convenience to the Postal Service, not the needs of customers. See DFC-T-1 at 30–31 and 66. The needs of customers do not sufficiently vary from year to year, city to city, and holiday to holiday to explain the inconsistency in collection practices on eves of holidays. For example, the South Jersey District performed collections according to a *weekday* schedule on Saturday, December 23, 2000, while the Appalachian District and Royal Oak District performed early collections at noon. *Id.* at 31. Most districts followed the regular Saturday collection schedule. It is inconceivable that customers' needs varied so greatly from region to region that the Appalachian District and Royal Oak District met the needs of their customers with their early collections, particularly since collection service in these districts did not resume until Tuesday, December 26, 2000 — three days later. The only plausible explanation for the variation is convenience to the Postal Service. Convenience to the Postal Service is unrelated to adequacy of service to customers.

**6. In most instances, districts that perform early collections on eves of holidays are performing early collections contrary to headquarters policy directives.**

This case has correctly focused primarily on Postal Service practice, rather than policy, since actual practices affect customers and the level of service that the Postal Service provides. Nonetheless, it is important to observe that headquarters policy normally has not authorized the early collections on eves of holidays that are the focus of this complaint. Moreover, neither POM Exhibit 125.22 nor DMM section G011.1.5 authorizes early collections on eves of

holidays. Thus, the early collections on eves of holidays represent activities in rogue districts whose officials are defying headquarters directives.

In 1998, 15 districts performed early collections on Christmas Eve, and three districts performed early collections on New Year's Eve. The headquarters policy memo required normal collections on both days. USPS-LR-C2001-1/1.

In 1999, 22 districts performed early collections on Christmas Eve, and five districts performed early collections on New Year's Eve. The headquarters policy memo permitted curtailment of "late evening" mail collections on Christmas Eve and no curtailment on New Year's Eve. USPS-LR-C2001-1/1. Presumably 5:00 PM collections, and even 6:30 PM and 7:00 PM collections, would not constitute "late evening" collections, so all curtailments — e.g., noon collections, use of Saturday collection schedules — except those in the Northern Virginia District were inconsistent with headquarters policy. The Northern Virginia District eliminated only collections after 7:00 PM on Christmas Eve.

Headquarters policy authorized early collections on Monday, July 3, 2000. USPS-LR-C2001-1/1. Only the New York District seized this opportunity to reduce service to customers.

Only two districts performed early collections on Saturday, December 23, 2000, and Saturday, December 30, 2000, since the true eve of the holiday was on Sunday, and the holiday was on Monday. The South Jersey District performed normal *weekday* collections on Saturday, December 23, 2000, to accommodate expected mail volume. The headquarters policy required normal collections on December 23, 2000, and December 30, 2000. USPS-LR-C2001-1/1.

In 2001, 14 districts performed early collections on Christmas Eve, and 11 districts performed early collections on New Year's Eve. In addition to performing final collections at noon on Christmas Eve and New Year's Eve, the Appalachian District performed final collections at noon on Saturday, December 22 and Saturday, December 29. The early collections specifically included lobby

drops in post offices, so customers were completely denied outgoing First-Class Mail service in the afternoon on these *four* days in the 250, 251, 252, 253, 263, 264, and 265 ZIP Code areas in West Virginia and the 240 and 241 ZIP Code areas in Virginia.

The headquarters policy memo required *normal* collections on Christmas Eve and New Year's Eve in 2001. The policy memo for the 2001 holiday period was dated August 17, 2001, and did not highlight the requirement for normal collections on Christmas Eve and New Year's Eve, but the requirement is clearly stated.

If the Postal Service wants to enforce headquarters policy requiring normal collections on eves of holidays, the agency needs to emphasize this policy to area vice presidents and district managers in both verbal and written communications. The New York Metro Area has been particularly wanton in its disregard for headquarters policy, as *every* district in the New York Metro Area performed early collections on Christmas Eve and New Year's Eve in 2001. Every other area had at least one district that provided customers with the required level of service.

Ironically, if Postal Service field officials had been observing headquarters operations policies for eves of holidays, a nationwide service complaint under section 3662 never would have materialized. The only day on which headquarters explicitly authorized widespread early collections on eves of holidays was Monday, July 3, 2000. However, headquarters' failure to stop the repeated instances of early collections on eves of holidays, despite direct *knowledge of the early collections*, DFC-T-1 at 38, suggests that field officials are receiving a wink and a nod from headquarters.

**F. COLLECTION SERVICES ON EVES OF HOLIDAYS ARE NOT EFFICIENT.**

Efficiency is measured by evaluating the expense or waste involved in producing postal services that meet certain standards. An efficient Postal Service also will provide the best possible service with a given set of resources.

In many cities, particularly large cities, the Postal Service treats collection boxes located in front of stations and post offices as regular street collection boxes and assigns those boxes to motorized collection routes. Often, these collection boxes are collected at a time convenient for the motorized collector to collect them, with no thought given to the existence of staff inside the station or post office who could collect the boxes shortly before the final dispatch of outgoing mail, as Postal Service policy requires. In fact, in some cities, the staff of stations and post offices does not have access to the collection boxes anymore. See DFC-T-1 at 47–48.

This practice of assigning collection boxes in front of staffed postal facilities to motorized street collection routes often leads to inefficient results that deny customers appropriate collection services. For example, the latest collection time on Saturdays at any street collection box in Flushing, New York, is 3:00 PM. The collection boxes located in front of the Flushing main post office have a 3:00 PM collection. (The final collection time at the Queens P&DC, where the mail from Queens is processed, is only 10:00 AM.) However, the Flushing post office is open for window service until 5:00 PM on Saturdays. Customers must find parking in this congested area and take their mail inside the post office because the Postal Service cannot be troubled to collect mail from the boxes in front of the post office after 3:00 PM. Similarly, in front of the large General Post Office in Manhattan, the final collection time on Saturdays is 1:00 PM, even though staff are available in this post office late into the evening to collect mail and take it across the street to the Morgan P&DC. The retail window is open 24 hours a day. See *Id.* at 47–48.

When the Postal Service performs early collections on eves of holidays, I believe that, in many instances, the collection boxes located in front of staffed postal facilities are collected at the time established for the early collections in the city. Early collections on eves of holidays in front of delivery units are

unnecessary. Delivery units always have a late-afternoon dispatch to transport to the processing plant the outgoing mail that carriers collect on their routes. Particularly since the Postal Service never announces that mail that customers leave for their letter carrier will not be dispatched on the same day, Christmas Eve and New Year's Eve are no different: when the carriers return from the streets, they bring back collection mail, and the Postal Service transports this mail to the processing plant in the late afternoon or early evening — probably according to the normal weekday dispatch schedule. In fact, I would expect that many carriers would return to the office *later* than the normal time on Christmas Eve due to heavy mail volume, and their delivery unit may even have a special late-evening dispatch to accommodate heavy mail volume during the Christmas holiday period. No reason exists why the Postal Service cannot or should not collect the mail from the collection boxes located at the delivery units according to the normal schedule or, at minimum, before the dispatch truck departs, even if early collections are performed elsewhere in the city. Postal Service policy requires collections to be made as late in the day as possible, 15 to 30 minutes before the dispatch truck departs. Late-afternoon collections at delivery units would help to offset the harm to customers that early collections on eves of holiday cause, denying customers access to outgoing First-Class Mail service for several hours.

Thus, even if early collections on eves of holidays somehow were deemed to be justified, the Postal Service will nevertheless continue to operate inefficiently when it extends the early collections to collection boxes located at delivery units whose late-afternoon or evening dispatch truck to the processing plant departs at the normal time.

## **VI. STEPS TO CORRECT THE PROBLEMS**

The purpose of this complaint is to generate a public report from the Commission that will assist the Postal Service in resolving these service problems. Consistent with the public policy underlying section 3662, the Commission should recommend the following changes in service.



1. **The Postal Service should provide collection and processing of outgoing First-Class Mail to all customers on non-widely observed holidays.** With most businesses open on these holidays, businesses' need for outgoing mail service is clear. Moreover, three of these four holidays fall on Mondays, and neither business nor individual customers should be denied outgoing mail service for two consecutive days. When appropriate for efficiency, the Postal Service should employ consolidation plans, similar to existing Saturday consolidation plans, to avoid operating every processing plant.
2. **Except, possibly, at Christmas and New Year's, the Postal Service should provide collection and processing of outgoing First-Class Mail to all customers on widely observed holidays that fall on Mondays.** This change will ensure that two consecutive days do not pass without outgoing mail service. When appropriate for efficiency, the Postal Service should employ aggressive plant consolidation plans similar to those used in the Pacific Area in the mid-1990's. See USPS-LR-C2001-1/3.
3. **The Postal Service should announce holiday service levels to the public.** The Postal Service should modify the Collection Box Management System database, as well as, possibly, the design of the collection-times labels, to ensure that the labels indicate a holiday collection time *and the holidays on which this collection time applies*. Until this solution can be implemented, the Postal Service should post signs in post-office lobbies indicating the holidays on which outgoing mail service will be provided and the final collection time at the post office for depositing outgoing mail. If the collection times of street collection boxes also can be summarized easily — e.g., weekday schedule on Columbus Day, Saturday schedule on Memorial Day — this information should be provided as well. The Postal Service also should revise POM Exhibit 125.22 and DMM section G011.1.5.

- 4. The Postal Service should eliminate the practice of conducting early collections on eves of holidays and enforce this policy to ensure compliance in the field.** If, however, the Postal Service decides that early collections on eves of holidays are so central to the mission of the agency that the Postal Service cannot eliminate them, the information on early collections should be permanently printed on collection-times labels to ensure adequate advance and ongoing notice to the public.